Appeal Decision

Appeal No. 2020-3391

Appellant Heiwa Corporation

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The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2016-1780, entitled "Game machine", [the application published on July 13, 2017, Japanese Unexamined Patent Application Publication No. 2017-121365], has resulted in the following appeal decision:

Conclusion

The appeal of the case was groundless.

Reason

No. 1 History of the procedures

The present application is an application filed on January 7, 2016, reasons for refusal were notified as of May 20, 2019, a written opinion and a written amendment were submitted on July 26 of the same year, a decision of refusal (hereinafter, referred to as "Examiner's decision") was made as of December 12 of the same year, and, against this, a request for appeal against an examiner's decision of refusal was made on March 11, 2020 and, simultaneously, a written amendment was submitted.

No. 2 Decision to dismiss amendment on the amendment as of March 11, 2020

[Conclusion of Decision to Dismiss Amendment]

The amendment regarding the written amendment as of March 11, 2020 (hereinafter, referred to as "the Amendment") shall be dismissed.

[Reason]

1 Details of the Amendment

(1) The Amendment is an amendment that is made on the scope of claims, and is one including the amendment to make Claim 1 before the Amendment amended by the

amendment as of July 26, 2019, which is recited as
"A game machine, comprising:

a winning hole into which a game ball is capable of entering;

a lottery means for performing a lottery as to whether or not to shift to a state advantageous to a player in accordance with entry of the game ball to the winning hole;

a plurality of performance devices that perform predetermined actions in a performance for notifying a result of the lottery by the lottery means;

a performance device control means for controlling performance actions of the plurality of performance devices; and

an error notification means for notifying a predetermined error, wherein

the predetermined error includes a first error to be notified by at least two of the performance devices, and a second error to be notified by one of the performance devices, and wherein

the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices.", be amended to

"A game machine, comprising:

a winning hole into which a game ball is capable of entering;

a lottery means for performing a lottery as to whether or not to shift to a state advantageous to a player in accordance with entry of the game ball to the winning hole;

a plurality of performance devices that perform predetermined actions in a performance for notifying a result of the lottery by the lottery means;

a performance device control means for controlling performance actions of the plurality of performance devices; and

an error notification means for notifying a predetermined error, wherein

the predetermined error includes a first error to be notified by at least two of the performance devices, and a second error to be notified by one of the performance devices, and wherein

the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value." (underlines were added by the collegial body, and the same applies hereafter).

(2) The amendment of the above (1) concerning Claim 1 after the Amendment includes the following amended matter.

The amendment to amend the recitation of "the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices" that is a matter necessary for specifying the invention according to Claim 1 before the Amendment to "the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value".

2 Ground for amendment alleged by the Appellant

The Appellant alleges, in the statement of the request of the written request for appeal, the following ground for amendment.

"(1) Explanation of the ground for amendment and the Invention

By the written amendment submitted in concurrence with the written request for appeal, Claim 1 of the scope of claims has been amended into the content that "the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value". The underlined portions are the amended portions. This amendment is based on the matters described in paragraphs [0370], [0477], and the like, for example, in the original description."

3 Addition of new matters

(1) The Amendment according to the amendment of the above 1(2) is one that amends "suppresses" "a predetermined operation of at least one performance device" to "suppresses" "a predetermined operation of at least one performance device" "so that consumption current does not exceed an upper limit value".

However, the recitations of Claim 1 after the Amendment that "the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value" (hereinafter,

referred to as "the Recited matter") is not described in the description, the scope of claims, or the drawings originally attached to the application of the present application (hereinafter, referred to as "Original description and the like").

(2) Descriptions of Original description and the like

In [0370] and [0477], which are the grounds for amendment alleged by the Appellant, there are described the following matters.

A "[0370]

(Example of Error Notification Performance) Next, an error notification performance will be described. The error notification performance is a performance of notifying the occurrence of various errors and abnormalities to the game machine 100 by actions of the performance devices such as the performance display unit 200a, the frame portion illumination device 240, and the audio output device 206. Based on an event that an error command is transmitted from the main control board 300 to the sub control board 330, the error notification performance is performed under the control of the sub-CPU 330a by the performance display unit 200a, the performance illumination device 204, the frame portion illumination device 240, the audio output device 206, and so on. Along with the occurrence of various errors and abnormalities, the error notification performance can be executed even during a variable performance or during a jackpot performance. As will be described in detail later, in addition to the operations of the plurality of performance devices in the variable performance and the jackpot performance, the illumination operation, etc. of the frame portion illumination device 240 and the like are performed. For this reason, when the error notification performance is executed during the variable performance or during the jackpot performance, the current consumption in the game machine 100 increases and a situation occurs in which the power supply exceeds the upper limit value of the suppliable current amount, and, by this, for example, there is a possibility that a movement problem of an electrically driven member or power discontinuity occurs. Therefore, in the game machine 100 according to the present embodiment, in order to prevent the consumption current from exceeding the upper limit value, when executing the error notification performance, the operation of at least one performance device among the plurality of performance devices used for the variable performance and the jackpot performance might be suppressed. By suppressing the operation of at least one performance device of the plurality of performance devices at the time of execution of the error notification performance, the game machine 100 can prevent an increase in current consumption, and reduce the possibility of occurrence of a

movement problem of the electrically driven members and power discontinuity."

B "[0477]

In this manner, in the game machine 100 according to the present embodiment, when an error notification performance for notifying an error related to a fraud is executed, the operation of the performance manipulation device 208 among the plurality of performance devices is suppressed. Specifically, execution of the button vibration performance in the performance manipulation device 208 is prohibited. By this, the game machine 100 prevents the consumption current from increasing, avoiding the situation where the consumption current exceeds the upper limit value, and appropriate error notification can be made while reducing the possibility of occurrence of movement problems of the electrically driven members and power discontinuity. In the game machine 100, even during the error notification performance, predetermined operations (the operations based on the jackpot performance designation command) of performance devices (in this case, the performance display unit 200a, the performance accessary device 202, the performance illumination device 204, and the audio output device 206) other than the performance devices whose operation is suppressed among the plurality of performance devices are maintained. Further, even during an error notification performance for notifying errors related to a fraud, the main performances of the jackpot performance by the performance display unit 200a, the performance accessary device 202, the performance illumination device 204, the audio output device 206, and the like are continued, and thus the game machine 100 can reduce the feeling of uneasiness and discomfort given to the player caused by not executing the button vibration performance so as not to disturb the continuation of the game of the player, and, in addition, can conduct appropriate error notification while maintaining the performance effects by the plurality of performance devices."

(3) As descriptions corresponding to the Recited matter, in Original description and the like, it is described in [0370] that "in the game machine 100 according to the present embodiment, in order to prevent the consumption current from exceeding the upper limit value, when executing the error notification performance, the operation of at least one performance device among the plurality of performance devices used for the variable performance and the jackpot performance might be suppressed. By suppressing the operation of at least one performance device of the plurality of performance devices at the time of execution of the error notification performance, the game machine 100 can prevent an increase in current consumption, and reduce the possibility of occurrence of a

movement problem of the electrically driven members and power discontinuity.", and in [0477] that "in the game machine 100 according to the present embodiment, when an error notification performance for notifying an error related to a fraud is executed, the operation of the performance manipulation device 208 among the plurality of performance devices is suppressed. Specifically, execution of the button vibration performance in the performance manipulation device 208 is prohibited. By this, the game machine 100 prevents the consumption current from increasing, avoiding the situation where the consumption current exceeds the upper limit value, and appropriate error notification can be made while reducing the possibility of occurrence of movement problems of the electrically driven members and power discontinuity.".

As viewed from these descriptions, it can be said that, in Original description and the like, it is described, as a constitution for suppressing "so that consumption current does not exceed an upper limit value", that execution of the button vibration performance in the performance manipulation device 208 is prohibited.

On the other hand, it is reasonable to consider that "so that consumption current does not exceed an upper limit value" in the Recited matter is interpreted, literally, as including a constitution to make consumption current of an actual game machine not exceed a predetermined upper limit value certainly; however, it is obvious that, in order to make consumption current of an actual game machine not exceed a predetermined upper limit value certainly, it is necessary to compare the total value of consumption current of the game machine necessary when the first error is notified and the predetermined upper limit value to determine the magnitude relation between these, and, therefore, it is recognized that the Recited matter includes a constitution to compare, at the design stage of the game machine, or at the timing notifying the first error during operation of the game machine, the total value of consumption current of the game machine and the predetermined upper limit value, and determine performance devices to be suppressed, operations of the performance devices to be suppressed, an aspect of suppression (prohibition, adjustment of intensity, and the like), and the like to perform control.

However, it cannot be acknowledged that such constitution is described or suggested in [0370] and [0477] of Original description and the like. In addition, it is not recognized that such constitution is described or suggested in the other portions of Original description and the like, either.

In view of the above, the amendment that adds "so that consumption current does not exceed an upper limit value" is not one that does not introduce new technical matters in relation to the technical matters derived by totalizing all the statements of

Original description and the like.

Therefore, the Amendment including the amendment of the above-mentioned 1(2) is not one that does not introduce new technical matters in relation to the technical matters derived by totalizing all the statements of Originally attached description and the like, and thus it is not one that has been made within the range of the matters described in Originally attached description and the like.

(4) Since the Amendment is not one, as above, that has been made within the range of the described matters of Original description and the like, it does not meet the requirement stipulated in Article 17-2(3) of the Patent Act.

4 Purpose of the Amendment

(1) The amendment of the above-mentioned 1(2) is one that limits the matter that "the performance device control means" "suppresses" "a predetermined operation of at least one performance device that is not being used for notification of the first error", which is a matter recited in Claim 1 before the Amendment, in such a way that the "suppression" is performed "so that consumption current does not exceed an upper limit value", based on the descriptions of such as [0370], [0477], and the like of Originally attached description and the like.

(2) The Amendment concerning Claim 1 after the Amendment is, as the above (1), an amendment that limits a matter necessary for specifying the invention according to Claim 1 before the Amendment.

Therefore, supposing that the Amendment concerning Claim 1 is for the purpose of restriction of the scope of claims stipulated in Article 17-2(5)(ii) of the Patent Act, whether the invention according to Claim 1 after the Amendment (hereinafter, referred to as "the Amended Invention") is one for which the Appellant can be granted a patent independently at the time of filing of the patent application (whether it complies with the provision of Article 126(7) of the Patent Act as applied mutatis mutandis pursuant to Article 17-2(6) of the same Act) will be examined as follows.

5 Judgment on independent requirements for patentability

(1) Amended Invention

The Amended Invention is shown again as follows. Note that symbols A to H were added by the collegial body for separate description.

"H A game machine, comprising:

A a winning hole into which a game ball is capable of entering;
B a lottery means for performing a lottery as to whether or not to shift to a state advantageous to a player in accordance with entry of the game ball to the winning hole;
C a plurality of performance devices that perform predetermined actions in a performance for notifying a result of the lottery by the lottery means;
D a performance device control means for controlling performance actions of the plurality of performance devices; and
E an error notification means for notifying a predetermined error, wherein
F the predetermined error includes a first error to be notified by at least two of the performance devices, and a second error to be notified by one of the performance devices, and wherein
G the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value."

(2) Cited Document

In Japanese Unexamined Patent Application Publication No. 2015-97681 (hereinafter, referred to as "Cited Document") cited in the reasons for refusal stated in the examiner's decision as Cited Document 1 and made available to public through electric communication lines before the application of the present application, there are described the following matters along with drawings.

A "[0012]
<Overall structure>
First, the overall structure of the pachinko machine 100 is demonstrated using FIG. 1. The figure is an external perspective view of the pachinko machine 100 as viewed from the front side (player side)."

B "[0029]
Only one first special figure starting opening 230 is provided at the center of the game board 200. When a predetermined ball detection sensor detects entry of the ball into the first special figure starting opening 230, the payout device 152 described later is driven, and a predetermined number of (for example, three) balls are discharged as a prize ball to the upper tray 126, and, along with this, a special figure variation game

by the first special figure display device 212 is started. The ball entering the first special figure starting opening 230 is guided to the back side of the pachinko machine 100 and then discharged to the gaming island side.

[0030]

The second special figure starting opening 232 is called an electric tulip (Den-chu), and only one second special figure starting opening 232 is disposed immediately below the first special figure starting opening 230. The second special figure starting opening 232 includes a wing member 232a that can be opened and closed from side to side, and it is impossible for a ball to enter while the wing member 232a is closed, but, when the player wins a common figure variation game and a common figure display device 210 displays a wining pattern in a stopped manner, the wing member 232a opens and closes at predetermined time intervals and for a predetermined number of times. When a predetermined ball detection sensor detects a ball entering the second special figure starting opening 232, the payout device 152 is driven to discharge a predetermined number of (for example, four) balls as a winning ball to the upper tray 126, and, at the same time, the special figure variation game by the second special figure display device 214 is started. The ball entering the second special figure starting opening 232 is guided to the back side of the pachinko machine 100 and then discharged to the gaming island side."

C "[0041]

The control unit of the pachinko machine 100 can be roughly divided into: a main control unit 300 for controlling the central part of the game; a first sub-control unit 400 that mainly controls a performance in accordance with a command signal transmitted by the main control unit 300 (hereinafter simply referred to as a "command"); a second sub-control unit 500 that controls various devices based on a command transmitted from the first sub-control unit 400; a payout control unit 600 that mainly controls the payout of game balls in accordance with a command transmitted from the main control unit 300; a shooting control unit 630 that controls shooting of the game balls; and a power control unit 660 that controls the power supplied to the pachinko machine 100."

D "[0052]

<Sub-control unit>

Next, the first sub-control unit 400 of the pachinko machine 100 will be described. The first sub-control unit 400 includes a basic circuit 402 that controls the entire first sub-control unit 400 based on a command or the like transmitted by the main

control unit 300, and, on the basic circuit 402, there are mounted a CPU 404, a RAM 408 for temporarily storing data, an I/O 410 for controlling input/output of various devices, and a counter timer 412 for measuring time, the number of times, and the like. The CPU 404 of the basic circuit 402 operates by inputting a clock signal of a predetermined cycle output from the crystal oscillator 414 as a system clock, and a ROM 406 storing control programs and data for controlling the entire first sub-control unit 400, various performance data, and the like is connected thereto.

[0053]

To the basic circuit 402, there are connected: a sound source IC 416 for controlling the speaker 120 (and the amplifier); a drive circuit 420 for controlling the various lamps 418 (for example, the chance button lamp 138); a drive circuit 432 for performing drive control of the shielding device 246; a shielding device sensor 430 for detecting the current position of the shielding device 246; a detection unit 710 for detecting a detection piece 704b4 provided on the movable portion 704 of the chance button 700; a sensor circuit 428 for outputting a detection signal from the shielding device sensor 430 or the detection unit 710 to the basic circuit 402; and a VDP 434 (video display processor) for reading image data, etc. stored in the ROM 406 based on a signal from the CPU 404, generating a display image using a work area of the VRAM 436, and displaying the image on the decorative pattern display device 208.

[0054]

Next, the second sub-control unit 500 of the pachinko machine 100 will be described. The second sub-control unit 500 includes a basic circuit 502 that receives a control command transmitted by the first sub-control unit 400 via the input interface and controls the entire second sub-control unit 500 based on the control command, and the basic circuit 502 includes a CPU 504, a RAM 508 for temporarily storing data, an I/O 510 for controlling input/output of various devices, and a counter timer 512 for measuring time, the number of times, etc. The CPU 504 of the basic circuit 502 operates by inputting a clock signal of a predetermined cycle output from the crystal oscillator 514 as a system clock, and is provided with a ROM 506 in which control programs and data for controlling the entire second sub-control unit 500, and data for image display, and the like are stored.

[0055]

Further, to the basic circuit 502, there are connected: a drive circuit 516 for performing drive control of the performance movable body 224; a performance movable body sensor 424 for detecting the current position of the performance movable body 224; and a sensor circuit 518 for outputting a detection signal from the performance movable

body sensor 424 to the basic circuit 502. The performance movable body 224 referred to here means one that includes at least a door-side performance movable body provided on the front frame door 106 and a board-side performance movable body 2242 provided on the game board 200. Furthermore, to the basic circuit 502, there are connected: a drive circuit 517 for performing drive control of the drive portion 708 of the chance button 700; a game board lamp drive circuit 530 for controlling the game board lamp 532; a game stand frame lamp drive circuit 540 for controlling the game stand frame lamp 542; and a serial communication control circuit 520 that performs lighting control by serial communication between the game board lamp drive circuit 530 and the game stand frame lamp drive circuit 540."

E "[0089]

<Main Control Unit Timer Interrupt Processing>

Next, with reference to FIG. 7, the main control unit timer interrupt processing executed by the CPU 304 of the main control unit 300 will be described. This figure is a flowchart which shows the flow of the timer interrupt processing of the main control unit.

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[0099]

Further, in Step S217, winning acceptance processing is performed. In this winning acceptance processing, it is determined whether or not there is a winning to the first special figure starting opening 230, the second special figure starting opening 232, the common figure start opening 228, or the variable winning opening 234. Here, the determination is made using a determination result as to whether or not there is matching with the winning determination pattern information in Step S203. When there is a winning to the first special figure starting opening 230 and the corresponding hold number storage area provided in the RAM 308 is not full, a value is acquired from the random value storage register of the random value generation circuit 318 corresponding to the first special figure starting opening 230, a processed value (for example, the acquired value + R register value + 1) is acquired as a special figure 1 winning random value, and in addition, a value is acquired from the random number counter for special figure 1 random value generation, and a processed value (for example, the acquired value + R register value + 1) is acquired as a special figure 1 random value and is stored in the corresponding random value storage area. When there is a winning to the second special figure starting opening 232 and the corresponding hold number storage area provided in the RAM 308 is not full, a value is acquired from the random value counter value storage

register of the random value generation circuit 318 corresponding to the first special figure starting opening 230, a processed value (for example, the acquired value + R register value + 1) is acquired as a special figure 2 winning random value, and in addition, a value is acquired from the random number counter for special figure 2 random value generation, and a processed value (for example, the acquired value + R register value + 1) is acquired as a special figure 2 random value and is stored in the corresponding random value storage area.

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[0117]

When the special figure state update processing in Step S225 and Step S227 is finished, special figure related lottery processing is performed for each of the special figure 1 and special figure 2 this time. Here too, the special figure related lottery processing for the special figure 2 (special figure 2 related lottery processing) is performed, first (Step S229), and thereafter, the special figure related lottery processing for the special figure 1 (special figure 1 related lottery processing) is performed (Step S231). Also with regard to such special figure related lottery processing, the main control unit 300 performs the special figure 2 related lottery processing prior to the special figure 1 related lottery processing, so that even when the start condition of the special figure 2 variation game and the start condition of the special figure 1 variation game are established at the same time, the special figure 2 variation game becomes variable first, so the special figure 1 variation game does not start variation. In addition, the notification of the result of the jackpot determination of the special figure variation game by the decorative pattern display device 208 is done by the first sub-control unit 400, and the notification of the lottery result of the lottery based on the winning into the second special figure starting opening 232 is given priority to notification of the lottery result of the lottery based on the winning into the first special figure starting opening 230."

F "[0169]

In FIG. 13(a), with the front frame door 106 closed, the variation display of a decorative pattern is performed in the decorative pattern display device 208, and during the variation display of the decorative pattern; that is, during the pattern variation display of the special figure, the door-side performance movable body 2241 is opened as shown in FIG. 6(b), and the board-side performance movable body 2242 falls to the front side of the decorative pattern display device 208. When the front frame door 106 is opened as shown in FIG. 6(c) while the performance movable body 224 is in operation as shown in FIG. 6(b), the board-side performance movable body 2242 provided on the game board

200 continues to operate, but the door-side performance movable body 2241 provided on the front frame door 106 returns to the initial position as shown in FIG. 6(d).

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[0178]

FIG. 15 is a view showing in stages the manner in which the front frame door 106 is opened in the second modification of the pachinko machine 100 shown in FIG. 13.

[0179]

A first door-side performance movable body 2241a that opens upward is provided in the front right upper portion of the front frame door 106 of the pachinko machine 100 shown in FIG. 15, and, in the front lower left portion of the front frame door 106 in the front view, a second door-side performance movable body 2241b that opens frontward is provided. Further, the game board 200 is provided with the board-side performance movable body 2242 that is the same as before. The initial (original) position of the first door-side performance movable body 2241a is the closed position (stored position in the front frame door 106) shown in FIG. 6(a), and the initial (original) position of the second door-side performance movable body 2241b is also the closed position (stored position in the front frame door 106) shown in FIG. 6(a). As shown in FIG. 15(b), with the front frame door 106 closed, the first door-side performance movable body 2241a opens upward, and the second door-side performance movable body 2241b opens forward, and the board-side performance movable body 2242 falls to the front side of the decorative pattern display device 208. When the front frame door 106 is opened as shown in FIG. 6(c) while the performance movable body 224 is in operation as shown in FIG. 6(b), the board-side performance movable body 2242 provided on the game board 200 continues to operate, but the second door-side performance movable body 2241b opened to the front, which is relatively likely to contact the player, returns to the initial position as shown in FIG. 6(d). On the other hand, the first door-side performance movable body 2241a opened upward, which is relatively unlikely to contact the player, stops its operation. The first door-side performance movable body 2241a is a movable body provided at a position where the player can contact, but if it is turned to the upper side and opened fully, a possibility that the player may come into contact with it becomes relatively low to the same degree as when it returns to the initial position. The first door-side performance movable body 2241a opens upward through the horizontal posture opened forward, and returns to the initial position through the horizontal posture opened forward. For this reason, even in the case of the first door-side performance movable body 2241a, if the front frame door 106 is opened when it is in the horizontal posture opened forward, it returns to the initial position or, conversely, turns up to the upper side."

G "[0638]

Eventually, the lower tray 128 becomes full, and a lower tray full error (hereinafter referred to as a third error) occurs, and, on the decorative pattern display device 208 shown in FIG. 55(d), a character display to urge ball removal is on display."

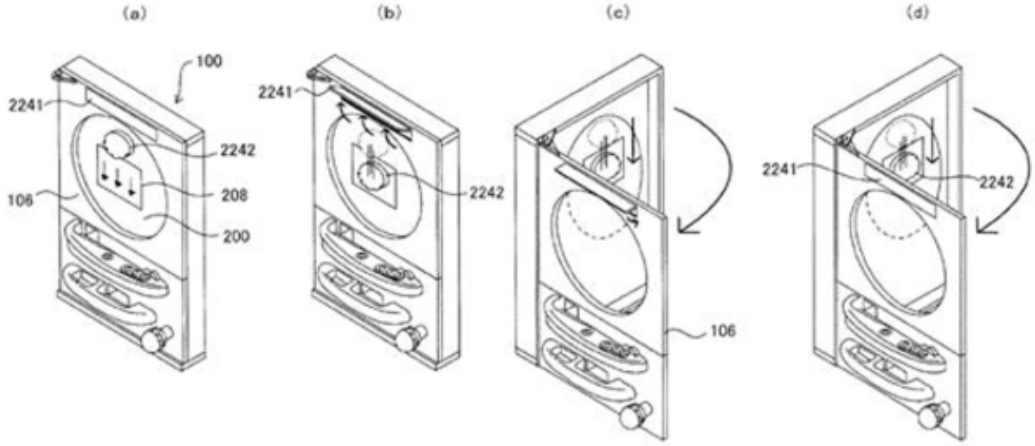
H "[0665]

Here, the inner frame 104 is opened, and a door open error (first error) occurs. Even when the front door 105 is opened relative to the inner frame 104, it is the same as the following description. Although the decorative pattern display device 208 shown in FIG. 60(b) is in the reach state, its display screen is displayed with characters as a notification about the first error, and the speaker 120 is also in a state outputting a voice of an error occurrence notification as notification about the first error.

[0666]

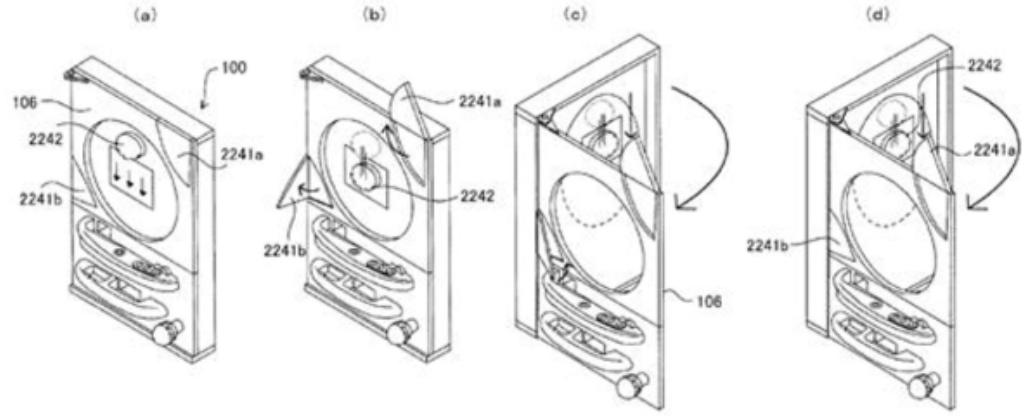
On the decorative pattern display device 208 shown in FIG. 60(c), the combination of the decorative patterns of 'decoration 7'-'decoration 7'-'decoration 7' corresponding to the jackpot is being displayed in a stopped manner, and, in the pachinko machine 100 shown in FIG. 60(d), a jackpot game is started. Even in this stage, the inner frame 104 is still open, and the door open error continues. On the other hand, by the start of the jackpot game, it is supposed to become the operation period of the movable body performance by the door-side performance movable body 2241 according to the performance data, but here, the first error that occurred first is not resolved, and, therefore, the operation of the door-side performance movable body 2241 according to the performance data is prohibited from the beginning. That is, the first sub-control unit 400 is one that receives an error occurrence command or an error resolution command, or a command including contents of error occurrence or error resolution from the main control unit 300, and therefore even if the first sub-control unit 400 receives the jackpot start command from the main control unit 300, if the error resolution command is not received in the state where the error occurrence command has been received first, the first sub-control unit 400 does not start control of the door-side performance movable body 2241 according to the performance data. As a result, the operation of both the first door-side performance movable body 2241a and the second door-side performance movable body 2241b shown in FIG. 60(d) is restricted, and both remain at the initial positions."

I "[FIG. 13]



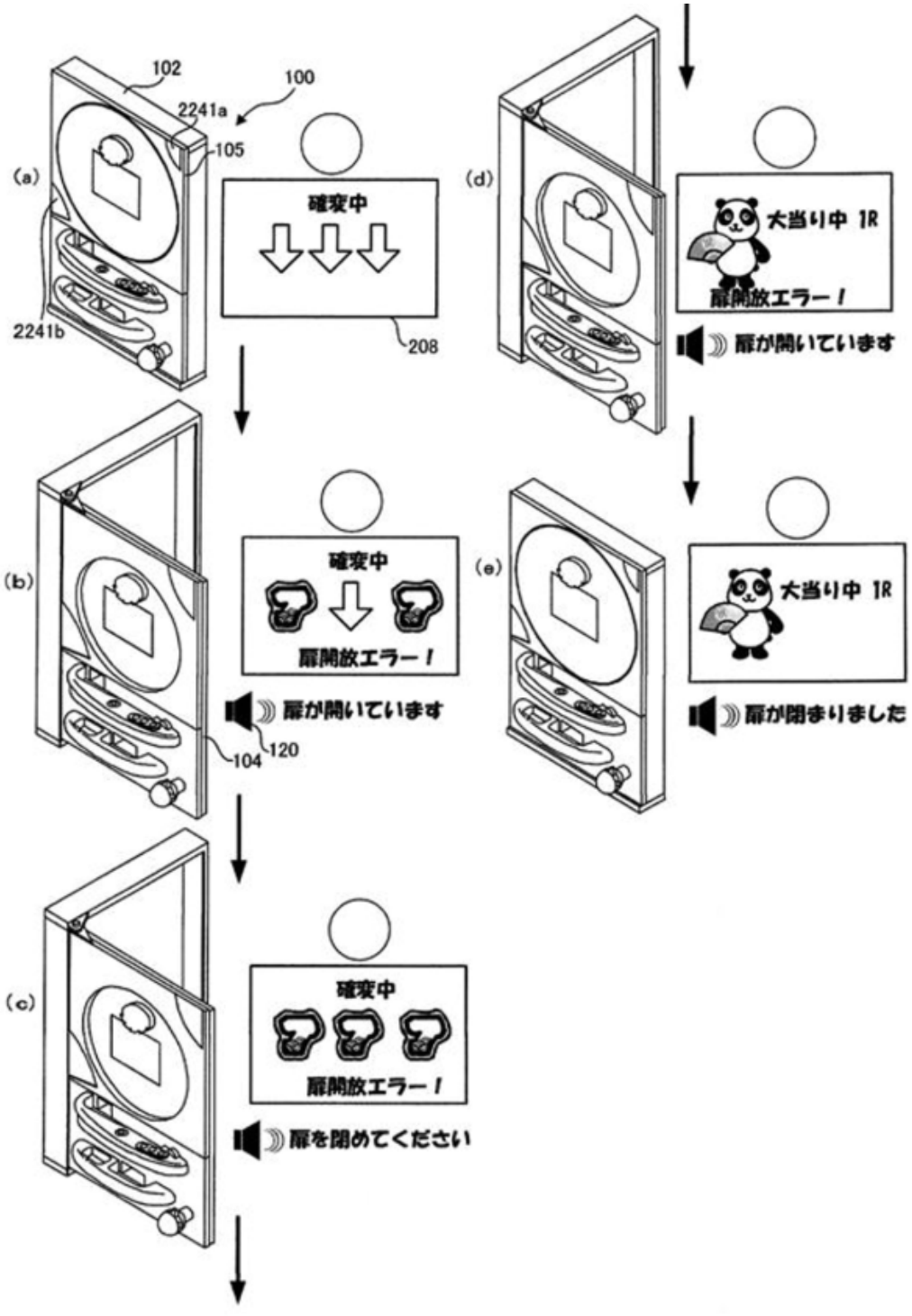
"

J "[FIG. 15]



"

K "[FIG. 60]



確変中　During Probability Variation
大当たり中　During Jackpot
扉開放エラー！　Door Open Error!
扉が開いています　Door is open
扉が閉まりました　Door is closed

扉を閉めてください　Close door please

"

L　In [0169], it is described that "In FIG. 13(a), with the front frame door 106 closed, the variation display of a decorative pattern is performed in the decorative pattern display device 208, and during the variation display of the decorative pattern; that is, during the pattern variation display of the special figure, the door-side performance movable body 2241 is opened as shown in FIG. 6(b), and the board-side performance movable body 2242 falls to the front side of the decorative pattern display device 208.　When the front frame door 106 is opened as shown in FIG. 6(c) while the performance movable body 224 is in operation as shown in FIG. 6(b), the board-side performance movable body 2242 provided on the game board 200 continues to operate, but the door-side performance movable body 2241 provided on the front frame door 106 returns to the initial position as shown in FIG. 6(d)", and in [0178], that "FIG. 15 is a view showing in stages the manner in which the front frame door 106 is opened in the second modification of the pachinko machine 100 shown in FIG. 13", and in [0179], that "A first door-side performance movable body 2241a that opens upward is provided in the front right upper portion of the front frame door 106 of the pachinko machine 100 shown in FIG. 15".　As viewed from the description of the above-mentioned [0169] related to FIG. 13(a)-(d) and the description of FIG. 15(a)-(d), it is obvious that the pachinko machine 100 described in FIG. 15(a)-(d) also is "during variable display of a decorative pattern in the decorative pattern display device 208".

Therefore, it is recognized that it is shown in Cited Document that "the first door-side performance movable body 2241a opens upward during variable display of a decorative pattern in the decorative pattern display device 208".

M　In [0665], it is described that "in the decorative pattern display device 208 shown in FIG. 60(b)," "its display screen is displayed with characters as a notification about the first error, and the speaker 120 is also in a state outputting a voice of an error occurrence notification as notification about the first error", and, in FIG. 60(b), it is shown that, on the display screen of the decorative pattern display device 208, the characters of "Door Open Error!" are displayed, and, in conjunction with this, the voice of "Door is open" is output from the speaker 120.

In addition, in [0666], it is described that "in the pachinko machine 100 shown in FIG. 60(d), a jackpot game is started.　Even at this stage" "the door open error

continues", and, in FIG. 60(d), it is shown that, on the display screen of the decorative pattern display device 208, a picture of a giant panda and the characters of "During Jackpot 1R" are displayed, and, in conjunction with this, as with FIG. 60(b), the characters of "Door Open Error!" are displayed, and, the voice of "Door is open" is output from the speaker 120.

Further, in FIG. 60(b)-(d), it is shown that the characters of "Door Open Error!" are continuously displayed on the display screen of the decorative pattern display device 208, and the voice of "Door is open" is output from the speaker 120 continuously.

Therefore, it is recognized that it is shown in Cited Document that "when, in a stage where a door open error continues, a jackpot game is started, a picture of a giant panda and the characters of 'During Jackpot 1R' are displayed on the display screen of the decorative pattern display device 208, and, in conjunction with this, as a notification related to the first error, the characters of 'Door Open Error!' are continuously displayed on the display screen of the decorative pattern display device 208, and the voice of 'Door is open' is output from the speaker 120 continuously".

N As viewed from the above A to M, in Cited Document, there is described the following invention (hereinafter, referred to as "Cited Invention").

"A pachinko machine 100 ([0012]), comprising:

the first special figure starting opening 230 and the second special figure starting opening 232 to which a ball enters ([0029], [0030]); and

the decorative pattern display device 208, the speaker 120, the first door-side performance movable body 2241a ([0053], [0179]), wherein

the first door-side performance movable body 2241a is one that opens upward during variable display of a decorative pattern in the decorative pattern display device 208 (recognized matter L),

when a door open error (the first error) occurs, on the display screen of the decorative pattern display device 208, character display as notification related to the first error is performed, and a voice is output from the speaker 120 as notification related to the first error ([0665]),

when a lower tray full error (the third error) occurs, a character display to urge ball removal is made on the decorative pattern display device 208 as an error related notification ([0638]),

the main control unit 300 performs special figure related lottery processing when there is a wining to the first special figure starting opening 230 or the second special

figure starting opening 232 ([0089], [0099], [0117]),

the first sub-control unit 400 for mainly performing performance control performs control of the speaker 120, and the decorative pattern display device 208 ([0041], [0052], [0053]),

the second sub-control unit 500 for controlling various kinds of equipment based on commands transmitted from the first sub-control unit 400 performs drive control of the door-side performance movable body 2241 ([0041], [0054], [0055]), and wherein

when a door open error (the first error) occurs, character display is performed on the display screen of the decorative pattern display device 208 as first error related notification, a voice of error occurrence notification is output from the speaker 120 as first error related notification, and if a jackpot game is started in a stage in which the door open error continues, a picture of a giant panda and the characters of 'During Jackpot 1R' are displayed on the display screen of the decorative pattern display device 208, and, in conjunction with this, the characters of 'Door Open Error!' are displayed continuously on the display screen of the decorative pattern display device 208 as the first error related notification, the voice of "door is open" is continuously output from the speaker 120, and, by a jackpot game having been started, it is supposed to become an operation period of the movable body performance by the door-side performance movable body 2241 according to performance data; however, the first sub-control unit 400 prohibits the operation of the door-side performance movable body 2241 according to performance data from the beginning because the first error occurring previously has not yet been resolved ([0665], [0666], recognized matter M)."

(3) Comparison

A The Amended Invention and the Cited Invention are compared. The following headers (a) to (h) are made to correspond to A to H of the Amended Invention.

(a) "The first special figure starting opening 230 and the second special figure starting opening 232 to which a ball enters" of Cited Invention correspond to "a winning hole into which a game ball is capable of entering" of the Amended Invention.

Therefore, Cited Invention includes Constitution A of the Amended Invention.

(b) Since it is obvious for a person skilled in the art that "special figure related lottery processing" that is "performed" "when there is a winning to the first special figure starting opening 230 or the second special figure starting opening 232" of Cited Invention is "a lottery as to whether or not to shift to a state advantageous to a player", "the main control

unit 300" of Cited Invention includes the function of "lottery means" of the Amended Invention.

Therefore, Cited Invention includes Constitution B of the Amended Invention.

(c) Since "variable display of a decorative pattern" in "the decorative pattern display device 208" of Cited Invention corresponds to "a performance for notifying a result of the lottery by the lottery means" of the Amended Invention, "the decorative pattern display device 208" that displays "variable display of a decorative pattern" and "the first door-side performance movable body 2241a" "that opens upward during variable display of a decorative pattern" of Cited Invention correspond to, "a plurality of performance devices that perform predetermined actions in a performance for notifying a result of the lottery by the lottery means" of the Amended Invention.

In addition, since it is obvious that a voice is output in a performance for notifying a lottery result, "speaker" of Cited Invention also corresponds to one of "a plurality of performance devices" of the Amended Invention.

Therefore, Cited Invention includes Constitution C of the Amended Invention.

(d) "The first sub-control unit 400" that "performs control of the speaker 120, and the decorative pattern display device 208" and "the second sub-control unit 500" that "performs drive control of the door-side performance movable body 2241" of Cited Invention include the function of "a performance device control means for controlling performance actions of the plurality of performance devices" of the Amended Invention.

Therefore, Cited Invention includes Constitution D of the Amended Invention.

(e) Since Cited Invention is one in which "when a door open error (the first error) occurs, on the display screen of the decorative pattern display device 208, character display as notification related to the first error is performed, a voice is output from the speaker 120 as notification related to the first error, and when a lower tray full error (the third error) occurs, a character display to urge ball removal is made on the decorative pattern display device 208 as error related notification", it is obvious that Cited Invention is provided with a constitution corresponding to "an error notification means" of the Amended Invention.

Therefore, Cited Invention includes Constitution E of the Amended Invention.

(f) "A door open error (the first error)" of Cited Invention "when" it "occurs, on the display screen of the decorative pattern display device 208, character display as notification

related to the first error is performed, a voice is output from the speaker 120 as notification related to the first error" corresponds to "a first error to be notified by at least two of the performance devices" of the Amended Invention, and, in addition, "a lower tray full error (the third error)" of Cited Invention "when" it "occurs, a character display to urge ball removal is made on the decorative pattern display device 208 as error related notification" corresponds to "a second error to be notified by one of the performance devices" of the Amended Invention.

Therefore, Cited Invention includes Constitution F of the Amended Invention.

(g) From the above (d), "the first sub-control unit 400" of Cited Invention includes the function of "a performance device control means" of the Amended Invention, and, from the above (f), "a door open error (the first error)" of Cited Invention corresponds to "a first error" of the Amended Invention.

Cited Invention is one in which "when a door open error (the first error) occurs, on the display screen of the decorative pattern display device 208, character display as notification related to the first error is performed, a voice is output from the speaker 120 as notification related to the first error", and, in addition, "if a jackpot game is started in a stage in which the door open error continues," "the characters of 'Door Open Error!' are displayed continuously on the display screen of the decorative pattern display device 208 as the first error related notification, the voice of 'door is open' is continuously output from the speaker 120, and, by a jackpot game having been started, it is supposed to become an operation period of the movable body performance by the door-side performance movable body 2241 according to performance data, however" "the operation of the door-side performance movable body 2241 according to performance data" is "prohibited" "from the beginning because the first error occurring previously has not been resolved yet", and therefore "the door-side performance movable body 2241" of Cited Invention corresponds to "at least one performance device that is not being used for notification of the first error among the plurality of performance devices" of the Amended Invention.

Then, "prohibits the operation of the door-side performance movable body 2241 according to performance data from the beginning" of Cited Invention corresponds to "suppresses" "a predetermined operation of at least one performance device" of the Amended Invention.

Therefore, Cited Invention includes the matter of "the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being

used for notification of the first error among the plurality of performance devices" of Constitution G of the Amended Invention.

(h) "The pachinko machine 100" of Cited Invention corresponds to "a game machine" of the Invention.

Therefore, Cited Invention includes Constitution H of the Amended Invention.

B As viewed from the above-mentioned A, the Amended Invention and Cited Invention are identical in a point of being

"H A game machine, comprising:
A a winning hole into which a game ball is capable of entering;
B a lottery means for performing a lottery as to whether or not to shift to a state advantageous to a player in accordance with entry of the game ball to the winning hole;
C a plurality of performance devices that perform predetermined actions in a performance for notifying a result of the lottery by the lottery means;
D a performance device control means for controlling performance actions of the plurality of performance devices; and
E an error notification means for notifying a predetermined error, wherein
F the predetermined error includes a first error to be notified by at least two of the performance devices, and a second error to be notified by one of the performance devices, and wherein
G' the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices.", and appear to be different in the following point.

[Different Feature] (Constitution G)

Based on the first error being notified by the error notification means,

the performance device control means of the Amended Invention suppresses a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value, whereas,

the first sub-control unit 400 of Cited Invention is made to prohibit the operation of the door-side performance movable body 2241 according to performance data just from the beginning.

(4) Judgment

The above-mentioned different feature is examined.

Although the matter to "suppress so that consumption current does not exceed an upper limit value" can be understood, as has been pointed out in the above No. 2 [Reason]3(3), as including a constitution to make consumption current of an actual game machine not exceed a predetermined upper limit value certainly, it is also possible to interpret, from the description of [0370] and [0477] of Originally attached description and the like, as including a constitution to prevent, by suppressing the operation (prohibiting execution of a button vibration performance) of at least one performance device among a plurality of performance devices at the time of execution of error notification performance, increase in consumption current to avoid the consumption current exceeding the upper limit value, thereby reducing a risk of occurrence of movement problems of electrically driven members or power discontinuity.

This constitution is not one that compares the total value of consumption current necessary at the time of error notification and a predetermined current value so that the consumption current of an actual game machine does not exceed a predetermined upper limit value certainly, but is one that prevents, by just suppressing the operation of at least one performance device among a plurality of performance devices, increase in consumption current, thereby preventing the consumption current from exceeding the upper limit value to reduce a risk of occurrence of movement problems of electrically driven members or power discontinuity (it does not mean to certainly prevent movement problems of electrically driven members or power discontinuity from occurring by certainly avoiding an event that the consumption current exceeds the upper limit value).

That is, it is recognized that the matter to "suppress so that consumption current does not exceed an upper limit value" also includes the constitution just specifying that the operation of at least one performance device among a plurality of performance devices is suppressed.

Then, "prohibits the operation of the door-side performance movable body 2241 according to performance data from the beginning" of Cited Invention corresponds to "so that consumption current does not exceed an upper limit value" of the Amended Invention.

Therefore, the aforementioned different feature cannot be said to be a substantial different feature, and the Amended Invention is Cited Invention.

(5) Appellant's allegation

A The Appellant roughly alleges in the written request for appeal as follows.

"(2) Comparison between the Invention and Cited Invention

The invention according to Claim 1 of the present application after amendment has a characteristic constitution as 'the performance device control means suppresses, based on the first error being notified by the error notification means, a predetermined operation of at least one performance device that is not being used for notification of the first error among the plurality of performance devices so that consumption current does not exceed an upper limit value'.

By having the above characteristic constitution, the invention according to Claim 1 of the present application after amendment exerts an effect as 'prevents the consumption current from increasing, avoiding the consumption current exceeding the upper limit value, and appropriate error notification can be made while reducing the possibility of occurrence of movement problems of the electrically driven members and power discontinuity' (paragraph [0477] of the description). That is, the invention according to Claim 1 of the present application after amendment can solve the problem to be solved of the present application of 'performing appropriate error notification while preventing occurrence of troubles due to lack of current' (paragraph [0005] of the description).

...

The above-mentioned constitution in Cited Document 1 is according to the viewpoint of 'in a case where a movable body is provided at an accessible position for a player, it is necessary to consider safety and the like of the player' (paragraph [0006]). That is, in the invention described in Cited Document 1, the operation of a performance movable body is regulated in order to ensure safety of the player, and it is not one that performs regulation 'so that consumption current does not exceed an upper limit value' like the invention according to Claim 1 of the present application. Therefore, in the invention described in Cited Document 1, there is no viewpoint of avoiding lack of current.".

B Although it is considered that the Appellant is premised on a matter that "so that consumption current does not exceed an upper limit value" is to make the consumption current not exceed the predetermined upper limit value certainly, as examined in the above (4), the Amended Invention is not limited to one to make the consumption current not exceed an upper limit value certainly, and, therefore, the Appellant's allegation is wrong in its premise, and there is no alternative but to say that it is not reasonable.

In this connection, it is obvious that, by "prohibiting" "the operation of the door-

side performance movable body 2241 according to performance data" "from the beginning" in Cited Invention, it is possible to prevent, at the time when "the door open error continues", increase in consumption current, and to reduce a risk of occurrence of movement problems of electrically driven members or power discontinuity, and, thus, also in this point, it is not different from the Amended Invention.

(6) Closing of independent requirements for patentability

As described above, the Amended Invention is Cited Invention.

Therefore, the Amended Invention is one for which the Appellant should not be granted a patent independently at the time of filing of the patent application under the provisions of Article 29(1)(iii) of the Patent Act.

6 Summary

Since the Amendment violates, as in the above-mentioned 3, the provisions of Article 17-2(3) of the Patent Act, it should be dismissed under the provisions of Article 53(1) of the same Act which is applied mutatis mutandis pursuant to Article 159(1) of the same Act.

In addition, the Amended Invention is, as in the above-mentioned 5, one for which the Appellant should not be granted a patent independently at the time of patent application, and, therefore, the Amendment violates the provisions of Article 126(7) of the Patent Act as applied mutatis mutandis pursuant to the provisions of Article 17-2(6) of the same Act, and thus it should be dismissed under the provisions of Article 53(1) of the same Act which is applied mutatis mutandis pursuant to the provisions of Article 159(1) of the same Act.

No. 3 Regarding the Invention

1 The Invention

Since the Amendment has been dismissed as the above No. 2, the inventions according to the scope of claims of the present application are ones that are specified by the matters recited in Claims 1 to 2 of the scope of claims amended as of July 26, 2019, and the invention according to Claim 1 thereof (hereinafter, referred to as "the Invention") is one that is specified by the matters recited in Claim 1 thereof as has been described in the above No. 2 [Reason]1(1) as Claim 1 before the Amendment.

2 Reasons for refusal stated in the examiner's decision

The reasons for refusal stated in the examiner's decision are that the invention

according to Claim 1 of this application is the invention described in the following Cited Document distributed in Japan or a foreign country or that was made available to public through electric communication lines before the application was filed, and, therefore, it falls under Article 29(1)(iii) of the Patent Act, and the Appellant should not be granted a patent for that.

Note

Cited Document 1. Japanese Unexamined Patent Application Publication No. 2015-97681

3 Cited Document

The Recited matters of Cited Document 1 (Cited Document) are as having been described in the above No. 2 [Reason] 5(2).

4 Comparison / judgment

The Invention is one that is made by eliminating, from the Amended Invention examined in the above-mentioned No. 2 [Reason] 5, the limitation matter concerning "so that consumption current does not exceed an upper limit value", which is a superficial different feature.

Then, since the Amended Invention that corresponds to an invention that includes all the matters specifying the invention of the Invention, and further adds other matters, is Cited Invention as has been described in the above No. 2 [Reason]5(3) and (4), also the Invention is Cited Invention.

No. 4 Closing

As above, the Invention falls under Article 29(1)(iii) of the Patent Act, and the Appellant should not be granted a patent for that, and, therefore, without examining the inventions according to the other claims, the present application should be rejected.

Therefore, the appeal decision shall be made as described in the conclusion.

January 5, 2021

Chief administrative judge: ITO, Masaya
Administrative judge: KURANO, Izumi

Administrative judge: TETSU, Toyoo